IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

Crl.MC.No. 1641 of 2004()

CC.168/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II(MOBILE),ALAPPUZHA

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PETITIONER(S): ACCUSED

KUMAR A.V., EDATHODATHU HOUSE,
KOTTANKULANGARA, ALAPPUZHA.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENT(S): COMPLAINANT & STATE

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1. SREENIVASAN, NARASIMHAPURAM LODGE,
KALLAN ROAD, ALAPPUZHA.

2. THE STATE OF KERALA, REP.BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

ADV. SRI.K.ANAND (A.201) FOR R1
SMT.LATHA KRISHNAN FOR R1
PUBLIC PROSECUTOR SRI. K.C.SANTHOSH KUMAR.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. HEMA, J.

CRL.M.C.No.1641 OF 2004

Dated this the 10th day of August, 2007

O R D E R

A complaint was filed by first respondent before the Magistrate Court, alleging offence under Section 138 of the Negotiable Instruments Act against petitioner. The case was taken on file and during the pendency of the case, learned Magistrate referred the case to the Lok Adalat, since the offence involved is a compoundable offence. Lok Adalat passed Annexure-B award, stating that the matter is settled etc.

2. Lok Adalath returned the records to the court which referred the case. On getting the records, the case was disposed of by learned Magistrate. Thereafter, petitioner received a notice dated 2/6/2004 (Annexure-C), directing him to appear before Magistrate court on 15/6/2004. Thereafter, the case was posted to 28/6/2004 for appearance of the petitioner.

3. It is stated in the said notice that the case is re-opened and it is posted for "re-trial", since the amount was not

paid, in accordance with the award passed by Lok Adalat. Petitioner seeks to quash the proceedings initiated, pursuant to Annexure-C notice pending before the Magistrate's Court, on various grounds.

4. Learned counsel for petitioner contended that the case cannot be re-opened by the Magistrate Court, since Lok Adalat passed an award and the matter was disposed of by criminal court. Annexure-C notice is therefore, illegal and is liable to be quashed. It is also argued that the entire proceedings which is now re-initiated, on the basis of an Annexure-C notice are also to be quashed.

5. Learned counsel for first respondent, however, brought to my notice that amount has already been paid during pendency of this petition and the matter is settled out of court, as per his instruction. It is also submitted that the award has been satisfied to the satisfaction of both the parties and nothing remains to be done. Since the matter is compromised, it will amount to compounding and the case has to be treated as compounded and, accused be acquitted.

6. On hearing both sides, I find that the criminal case was brought to an end by Magistrate Court rightly or wrongly in

the light of the award passed by Lok Adalath. The matter is reportedly, settled out of court and the entire amount was already paid to the satisfaction of the complainant. Hence, it is clear that complainant will not approach any court for execution of Lok Adalath award. He has also no intention to prosecute the complaint also. Hence, practically, no purpose will be served by re-opening the criminal case which is already disposed of. If proceedings are allowed to continue, it will only result in abuse of process of court.

7. In circumstances, in the interest of justice and to prevent abuse of process of court, I find that the notice Annexure C which is issued to petitioner, directing him to appear for re-trial has to be quashed and I do so. The proceedings which are initiated against petitioner on the basis of Annexure-C notice are also quashed.

In the result, Crl.M.C. is allowed.

Sd/-

K.HEMA,JUDGE

kcv.